

R E M A R K S

Claim 5 was rejected under 35 USC 112, second paragraph because the term “group” lacked proper antecedent basis. Claim 2 is amended herein to overcome the rejection.

Claims 1-4 and 7-11 were rejected under 35 USC 102 as being anticipated by Chase et al, US Patent 6,081,524. Applicants respectfully traverse.

Chase et al describe an arrangement in an environment that, as described in col. 3, lines 28-41, offers

a new mechanism for providing extensible service features to those customers. In the new service, data link connection identifiers (DLCIs) may be used by the CPE to select among service types, feature sets, and closed user groups (CUGs). The DLCI is used in the layer 2 frame that conveys the user data to the network. The layer 3 user data packet is extracted from the layer 2 frame and the layer 3 address information for the (routable) protocol is used to route the user data packet over of a high performance packet switched network, according to the service class/feature set selected by the DLCI. At the destination, the layer 3 data is again enclosed in a layer 2 frame with a DLCI that indicates to which service group it belongs. The frame is then forwarded to the frame relay CPE.

It is noted that the control/flexibility that the DLCI provides in accordance with the above-quoted passage is a specification of (1) service types, (2) feature sets, and (3) closed user groups. *This is not priority information.*

Claim 1 specifies a method of transmitting data across a network that comprises a number of steps. The first step specifies receiving IP packets where is contains data and priority information. In support of the anticipation assertion, the Examiner points to col. 8, lines 38-66 of the reference. Respectfully, the cited passage does not teach it.

There is, indeed, a mention of priority information in the passage as layer 4 information that is carried by the IP packets. However, that information – being layer 4 information – is clearly “data” as far as IP packets are concerned. In contradistinction, claim 1 specifies that the IP packets contain data **and** priority information. Normal sentence construction rules dictate that the priority information that claim 1 specifies is *in addition to* the data, rather than part of the data.

There is also a mentioning in the cited passage of the data link connection identifier (DLCI), and although that field is located within the header of the frame relay

frames, it is an indicator of primarily different service categories. It is not a priority specification (since, for example, more than one service category can inherently be considered to have the same priority level).

Therefore, it is respectfully submitted that neither the cited passage nor any other passage of the reference teaches IP packets that carry data, and priority information. The reference does not teach the notion of a first router receiving a plurality of IP packets, each of which contains data and priority information and, therefore, it is respectfully submitted that claim 1 is not anticipated by the reference.

The third step of claim 1 specifies transmitting frame relay frames *from the first router to a frame relay network* in a manner determined by the priority information included in the frame relay frames. Since the only priority information is embedded in the data payload that is communicated to the network, it is not surprising that the transmission to the network is NOT “in a manner determined by the priority information included in the frame relay frames.” Therefore, the third step provides an additional reason to hold that claim 1 is not anticipated by the reference.

The fourth step of claim 1 specifies transmitting the frame relay frames *across a frame relay network* in manner determined by the priority information included in the frame relay frames. The conclusion above applies to this step with equal force and, therefore, the fourth step provides a yet additional reason to hold that claim 1 is not anticipated by the reference.

Claims 2-11 are dependent on claim 1 and, therefore, it is respectfully submitted that claims 2-4 and 7-11 are also not anticipated by the reference.

It is noted, as an aside, that in connection with claim 3, which speaks of PVCs used to transmit frame relay frames of a predetermined priority level, the Examiner points to col. 9, lines 36-52, but the cited passage does not mention priority levels at all. Similarly, in connection with claim 4, which specifies that when a congestion conditions occurs each of the PVCs carried frames having predetermined priority information, the Examiner points to col. 13, lines 35-52, and to col. 14, lines 37-59. However, these passages merely address the notion of communicating the existence of a congestion condition, and do not teach the notion of limiting PVCs to “transmitting frame relay frames having predetermined priority information.”

As for claim 9, the Examiner explicitly asserts that the DLCI corresponds to the priority information. Applicants respectfully disagree with this assertion for the reasons explained above.

Claim 5 was rejected under 35 USC 103 as being unpatentable over Chase et al in view of Shirai et al, US Patent 5,734,654. Applicants respectfully traverse. That which is missing in Chase et al, as discussed above, is not supplied by Shirai et al. Therefore, it is respectfully submitted claim 5 is not obvious in view of the Chase et al and Shirai et al combination of references.

The same argument applies to claim 6, which is rejected under 35 USC 103 over Chase et al in view of Baroudi US Patent 6,487,217.

Claim 12 is rejected under 35 USC 103 as being unpatentable over Shirai et al in view of Matsuo, US Patent 6,331,980. Applicants respectfully traverse. The Examiner asserts that Shirai et al teach receiving packets containing data and priority information, and in support of this assertion the Examiner points to FIG. 5, and col. 5, lines 30-34.

The cited passages states:

FIG. 5A is a diagram that illustrates the connection procedure of a frame relay network, whereby the frame relay switching apparatus 10A having Node Number 700 communicates to another frame relay switching apparatus 10B having Node Number 701 via two relaying nodes 10C, 10D.

Clearly, this passage does not describe, mention, or suggest any priority matters, and it is respectfully submitted that the combination of Shirai et al and the Masuo reference does not make claim 12 obvious.

Moreover, claim 12 is amended herein to include a first network that carries IP packets that include data and priority information, and a second network that carries IP packets that include data and priority information. None of the cited references suggest such an arrangement. Therefore, it is respectfully submitted that amended claim 12 is not obvious in view of the cited references, taken singly or in combination.

New claim 13 is dependent on claim 12, and new claim 14 somewhat parallels amended claim 12.

Aldermeshian 1999-0795


In view of the above amendments and remarks, applicants respectfully submit that all of the Examiner's rejections have been overcome. Reconsideration and allowance of claims 1-13 are respectfully solicited.

Respectfully,
Hrair Aldermeshian
Richard Hellstern
Raymond Kimber
Yonatan Levy
John Medamana
John Sikora

Dated: _____

6/23/04

By _____


Henry T. Brendzel
Reg. No. 26,844
Phone (973) 467-2025
Fax (973) 467-6589
email brendzel@home.com